part may obtain a review of the Department's final decision by filing a written petition for a review of the record with the appropriate United States district court.

(ii) The petition must be filed within 30 days after the decision is filed with the Chief Docket Clerk, Office of Administrative Law Judges.

(7) *Collection of penalties.* (i) If any person fails to comply with the Department's final decision imposing a civil money penalty, the Secretary, if the time for judicial review of the decision has expired, may request the Attorney General to bring an action in an appropriate United States district court to obtain a judgment against the person that has failed to comply with the Department's final decision.

(ii) In any such collection action, the validity and appropriateness of the Department's final decision imposing the civil penalty shall not be subject to review in the district court.

(iii) The Secretary may obtain such other relief as may be available, including attorney fees and other expenses in connection with the collection action.

(iv) Interest on and other charges for any unpaid penalty may be assessed in accordance with 31 U.S.C. 3717.

(8) *Offset.* In addition to any other rights as a creditor, the Secretary may seek to collect a civil money penalty through administrative offset.

(9) At any time before the decision of the Administrative Law Judge, the Secretary and the servicer may enter into an administrative settlement. The settlement may include provisions for interest, attorney's fees, and costs related to the proceeding. Such settlement will terminate the appearance before the Administrative Law Judge.

(o) *Discretionary payments.* Any borrower's discretionary payment (such as credit life or disability insurance) made as part of a monthly mortgage payment is to be noted on the initial and annual statements. If a discretionary payment is established or terminated during the escrow account computation year, this change should be noted on the next annual statement. A discretionary payment is not part of the escrow account unless the payment is required by the lender, in accordance

with the definition of ''settlement service'' in § 3500.2, or the servicer chooses to place the discretionary payment in the escrow account. If a servicer has not established an escrow account for a federally related mortgage loan and only receives payments for discretionary items, this section is not applicable.

(Approved by the Office of Management and Budget under control number 2502–0501)

[61 FR 13233, Mar. 26, 1996, as amended at 61 FR 46510, Sept. 3, 1996; 61 FR 50219, Sept. 24, 1996; 61 FR 58476, Nov. 15, 1996; 63 FR 3236, Jan. 21, 1998; 68 FR 12789, Mar. 17, 2003; 72 FR 5589, Feb. 6, 2007]

§ 3500.18 Validity of contracts and liens.

Section 17 of RESPA (12 U.S.C. 2615) governs the validity of contracts and liens under RESPA.

§ 3500.19 Enforcement.

(a) *Enforcement policy.* It is the policy of the Secretary regarding RESPA enforcement matters to cooperate with Federal, State or local agencies having supervisory powers over lenders or other persons with responsibilities under RESPA. Federal agencies with supervisory powers over lenders may use their powers to require compliance with RESPA. In addition, failure to comply with RESPA may be grounds for administrative action by the Secretary under part 24 of this title concerning debarment, suspension, ineligibility of contractors and grantees, or under part 25 of this title concerning the HUD Mortgagee Review Board. Nothing in this paragraph is a limitation on any other form of enforcement which may be legally available.

(b) *Violations of section 8 of RESPA (12 U.S.C. 2607), § 3500.14, or § 3500.15.* Any person who violates §§ 3500.14 or 3500.15 shall be deemed to violate section 8 of RESPA and shall be sanctioned accordingly.

(c) *Violations of section 9 of RESPA (12 U.S.C. 2608) or § 3500.16.* Any person who violates section 3500.16 of this part shall be deemed to violate section 9 of RESPA and shall be sanctioned accordingly.

(d) *Investigations.* The procedures for investigations and investigational proceedings are set forth in 24 CFR part 3800.

§ 3500.20 [Reserved]

§ 3500.21 Mortgage servicing transfers.

(a) *Definitions.* As used in this section:

Master servicer means the owner of the right to perform servicing, which may actually perform the servicing itself or may do so through a subservicer.

Mortgage servicing loan means a federally related mortgage loan, as that term is defined in § 3500.2, subject to the exemptions in § 3500.5, when the mortgage loan is secured by a first lien. The definition does not include subordinate lien loans or open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z, including open-end lines of credit secured by a first lien.

Qualified written request means a written correspondence from the borrower to the servicer prepared in accordance with paragraph (e)(2) of this section.

Subservicer means a servicer who does not own the right to perform servicing, but who does so on behalf of the master servicer.

Transferee servicer means a servicer who obtains or who will obtain the right to perform servicing functions pursuant to an agreement or understanding.

Transferor servicer means a servicer, including a table funding mortgage broker or dealer on a first lien dealer loan, who transfers or will transfer the right to perform servicing functions pursuant to an agreement or understanding.

(b) *Servicing Disclosure Statement and Applicant Acknowledgement; requirements.* (1) At the time an application for a mortgage servicing loan is submitted, or within 3 business days after submission of the application, the lender, mortgage broker who anticipates using table funding, or dealer who anticipates a first lien dealer loan shall provide to each person who applies for such a loan a Servicing Disclosure Statement. This requirement shall not apply when the application for credit is turned down within three business days after receipt of the application. A format for the Servicing Disclosure Statement appears as appendix MS–1 to this part. Except as provided in paragraph (b)(2) of this section, the specific language of the Servicing Disclosure Statement is not required to be used, but the Servicing Disclosure Statement must include the information set out in paragraph (b)(3) of this section, including the statement of the borrower's rights in connection with complaint resolution. The information set forth in Instructions to Preparer on the Servicing Disclosure Statement need not be included on the form given to applicants, and material in square brackets is optional or alternative language.

(2) The Applicant's Acknowledgement portion of the Servicing Disclosure Statement in the format stated is mandatory. Additional lines may be added to accommodate more than two applicants.

(3) The Servicing Disclosure Statement must contain the following information, except as provided in paragraph (b)(3)(ii) of this section:

(i) Whether the servicing of the loan may be assigned, sold or transferred to any other person at any time while the loan is outstanding. If the lender, table funding mortgage broker, or dealer in a first lien dealer loan does not engage in the servicing of any mortgage servicing loans, the disclosure may consist of a statement to the effect that there is a current intention to assign, sell, or transfer servicing of the loan.

(ii) The percentages (rounded to the nearest quartile (25%)) of mortgage servicing loans originated by the lender in each calendar year for which servicing has been assigned, sold, or transferred for such calendar year. Compliance with this paragraph (b)(3)(ii) is not required if the lender, table funding mortgage broker, or dealer on a first lien dealer loan chooses option B in the model format in paragraph (b)(4) of this section, including in square brackets the language ''[and have not serviced mortgage loans in the last three years.]''. The percentages shall be provided as follows:

(A) This information shall be set out for the most recent three calendar